

**Chap. 780.** AN ACT PROVIDING FOR THE ACQUISITION OF AGRICULTURAL PRESERVATION RESTRICTIONS BY THE COMMONWEALTH.

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to provide for the protection and preservation of agricultural lands, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

SECTION 1. Chapter 132A of the General Laws is hereby amended by inserting after section 11 the following four sections:-

*Section 11A.* The secretary of environmental affairs shall establish a program to assist the commonwealth in the acquisition of agricultural preservation restrictions as defined in section thirty-one of chapter one hundred and eighty-four, for land actively devoted to agricultural or horticultural uses as defined in sections one to five, inclusive, of chapter sixty-one A. The commissioner of food and agriculture may from funds appropriated to carry out the provisions of this section, or received from other sources, pay any agricultural land owner for a project submitted by a city or town and approved by the agricultural lands preservation committee established by section eleven B such amount as is determined by said agricultural lands preservation committee to be equitable in consideration of anticipated benefits from such project but not to exceed the difference between the fair market value of such land and the fair market value of such land restricted for agricultural purposes pursuant to this section. Title to agricultural preservation restrictions purchased by the commonwealth pursuant to this section shall be held in the name of the commonwealth. Projects shall be administered by conservation commissions in cities and towns in which such commissions have been established, or in a city, by the city council or its delegated agency subject to the provisions of the city charter, or in a town, by the board of selectmen or its delegated agency. Said commissioner, subject to the approval of the secretary, shall establish procedures for management of such program.

*Section 11B.* There is hereby created an agricultural lands preservation committee in the department of food and agriculture, the members of which shall be the commissioner of food and agriculture, who shall be chairman, the secretary of environmental affairs, the secretary of communities and development, the director of the office of state planning, the chairman of

the board of food and agriculture or their respective designees, and four members appointed by the governor, two of whom shall be owners and operators of farms within the commonwealth. The dean of the college of food and natural resources of the University of Massachusetts and the state conservationist of the United States Department of Agriculture Soil Conservation Service, or their respective designees, shall serve as nonvoting members. Said committee shall evaluate and accept or reject projects submitted by cities and towns. In so evaluating, the committee shall consider at a minimum the following:-

1. The suitability of land as to soil classification and other criteria for agricultural use.

2. The fair market value of such land and the fair market value of such land when used for agricultural purposes as determined by independent appraisals.

3. The degree to which the acquisition would serve to preserve the agricultural potential of the commonwealth.

The commissioner of food and agriculture may establish such rules and regulations as may be deemed necessary to carry out the purposes of this section.

*Section 11C.* The agricultural lands preservation committee shall prepare an annual report. Such report shall include the number and geographic distribution of applications accepted and rejected, the acreage and costs of purchases, and such other information as will enable the program to be evaluated.

*Section 11D.* Land under agricultural preservation restrictions, while actively devoted to agricultural, horticultural or agricultural and horticultural use as defined in sections one to five, inclusive, of chapter sixty-one A, shall be assessed for general property tax purposes at values no greater than those determined by the methods and provisions of section ten of said chapter sixty-one A.

SECTION 2. Section 31 of chapter 184 of the General Laws, as amended by chapter 15 of the acts of 1976, is hereby further amended by adding the following paragraph:-

An agricultural preservation restriction means a right, whether or not stated in the form of a restriction, easement, covenant or condition, in any deed, will or other instrument executed by or on behalf of the owner of the land appropriate to retaining land or water areas predominately in their agricultural farming or forest use, to forbid or limit any or all (a) construction or placing of buildings except for those used for agricultural purposes or for dwellings used for family living by the land owner, his immediate family or employees; (b) excavation, dredging or

removal of loam, peat, gravel, soil, rock or other mineral substance in such a manner as to adversely affect the land's overall future agricultural potential; and (c) other acts or uses detrimental to such retention of the land for agricultural use. Such agricultural preservation restrictions shall be in perpetuity except as released under the provisions of section thirty-two. All other customary rights and privileges of ownership shall be retained by the owner including the right to privacy and to carry out all regular farming practices.

SECTION 3. Said chapter 184 is hereby further amended by striking out section 32, as most recently amended by section 294 of chapter 706 of the acts of 1975, and inserting in place thereof the following section:-

*Section 32.* No conservation restriction or agricultural preservation restriction as defined in section thirty-one, held by any governmental body or by a charitable corporation or trust whose purposes include conservation of land or water areas or of a particular such area, and no preservation restriction, as defined in section thirty-one, held by any governmental body or by a charitable corporation or trust whose purposes include preservation of buildings or sites of historical significance or of a particular such building or site, shall be unenforceable on account of lack of privity of estate or contract or lack of benefit to particular land or on account of the benefit being assignable or being assigned to any other governmental body or to any charitable corporation or trust with like purposes, provided (a) in case of a restriction held by a city or town or a commission, authority, or other instrumentality thereof it is approved by the secretary of environmental affairs if a conservation restriction, the commissioner of food and agriculture if an agricultural preservation restriction or the Massachusetts historical commission if a preservation restriction, and (b) in case of a restriction held by a charitable corporation or trust it is approved by the mayor, or in cities having a city manager the city manager, and the city council of the city, or the selectmen or town meeting of the town, in which the land is situated, and the secretary of environmental affairs if a conservation restriction, the commissioner of food and agriculture if an agricultural preservation restriction or the Massachusetts historical commission if a preservation restriction.

Such conservation, preservation, and agricultural preservation restrictions are interests in land and may be acquired by any governmental body or such charitable corporations or trust which have power to acquire interest in the land, in the same manner as it may acquire other interests in land. Such a restric-

tion may be enforced by injunction or other proceeding, and shall entitle representatives of the holder to enter the land in a reasonable manner and at reasonable times to assure compliance. Such a restriction may be released, in whole or in part, by the holder for such consideration, if any, as the holder may determine, in the same manner as the holder may dispose of land or other interests in land, but only after a public hearing upon reasonable public notice, by the governmental body holding the restriction or if held by a charitable corporation or trust, by the mayor, or in cities having a city manager the city manager, the city council of the city or the selectmen of the town, whose approval shall be required, and in case of a restriction requiring approval by the secretary of environmental affairs, the Massachusetts historical commission or the commissioner of food and agriculture, only with like approval of the release.

No restriction that has been purchased with state funds shall be released unless it is repurchased by the land owner at its then current fair market value. Funds so received shall revert to the fund sources from which the original purchase was made, or, lacking such source, shall be made available to acquire similar interests in other land. Agricultural preservation restrictions shall be released by the holder only if the land is no longer deemed suitable for agricultural or horticultural purposes or unless two-thirds of both branches of the general court, by a vote taken by yeas and nays, vote that the restrictions shall be released for the public good.

Approvals of restrictions and releases shall be evidenced by certificates of the secretary of environmental affairs or the chairman, clerk or secretary of the Massachusetts historical commission, the commissioner of food and agriculture, city council, or selectmen of the town, duly recorded or registered.

In determining whether the restriction or its continuance is in the public interest, the governmental body acquiring, releasing or approving shall take into consideration the public interest in such conservation, preservation or agricultural preservation, and any national, state, regional and local program in furtherance thereof, and also any public state, regional or local comprehensive land use or development plan affecting the land, and any known proposal by a governmental body for use of the land.

This section shall not be construed to imply that any restriction, easement, covenant or condition which does not have the benefit of this section shall, on account of any provisions hereof, be unenforceable. Nothing in this section or section thirty-one and section thirty-three shall diminish the powers granted by any

general or special law to acquire by purchase, gift, eminent domain or otherwise to use land for public purposes.

Nothing in this section shall prohibit the department of public utilities from authorizing the taking of easements for the purpose of utility services provided that (a) said department shall require the minimum practicable interference with farming operations with respect to width of easement, pole locations and other pertinent matters, (b) the applicant has received all necessary licenses, permits, approvals and other authorizations from the appropriate state agencies, (c) the applicant shall compensate the owner of the property in the same manner and at the same fair market value as if the land were not under restriction.

SECTION 4. The first sentence in the first paragraph of section 33 of said chapter 184, as appearing in section 5 of chapter 666 of the acts of 1969, is hereby amended by striking out, in line 4, the words "and preservation restrictions" and inserting in place thereof the words:- , preservation and agricultural preservation restrictions.

SECTION 5. The second sentence of the third paragraph of said section 33 of said chapter 184, as amended by section 295 of chapter 706 of the acts of 1975, is hereby further amended by striking out, in line 7, the words "approves a conservation or preservation restriction" and inserting in place thereof the words:- or the commissioner of food and agriculture approves a conservation or preservation restriction or agricultural preservation restriction.

SECTION 6. The fourth paragraph of said section 33 of said chapter 184, as appearing in section 5 of chapter 666 of the acts of 1969, is hereby amended by striking out the first sentence and inserting in place thereof the following two sentences:- The registers of deeds, or a majority of them, may from time to time make and amend rules and regulations for administration of public restriction tract indexes, and the provisions of section thirteen A of chapter thirty-six shall not apply thereto. No such rule, regulation or any amendment thereof shall take effect until after it has been approved by the attorney general.

SECTION 7. Said section 33 of said chapter 184 is hereby amended by striking out the fifth paragraph, as amended by section 296 of chapter 706 of the acts of 1975, and inserting in place thereof the following paragraph:-

Except in the case of a restriction noted on the certificate of title of registered land subject thereto, or where the general location of the restricted land is indicated on a zoning map published by a city or town with a reference to a marginal note or list in-

dicating the original or then holder of the restriction and the place of record in the public records of the instrument imposing the restriction, no conservation, preservation restriction or agricultural preservation restriction having the benefit of section thirty-two, and no other restriction held by any governmental body, which is not so indexed in the public restriction tract index shall be enforceable after thirty years from the recording of the instrument imposing it unless before expiration of such thirty years there is similarly recorded a notice of restriction identifying the instrument and its place of record in the public records and naming one or more of the owners of record of each parcel of land to be affected by the notice, nor enforceable after twenty years from the recording of any such notice unless before the expiration of twenty years another such notice is so recorded. Such notices may be given by any official of a governmental body holding the restriction, by the secretary of environmental affairs in case of a restriction approved by him, by the chairman or acting chairman of the Massachusetts historical commission in case of a restriction approved by it, by the commissioner of food and agriculture in case of a restriction approved by him, or by any official or any charitable corporation or trust holding the restriction or whose purposes include, in case of a conservation restriction, the conservation of land or water areas, or in case of a preservation restriction, the preservation of buildings or sites of historical significance, in case of an agricultural preservation restriction the preservation of agricultural lands.

SECTION 8. The registers of deeds shall promulgate on or before January first, nineteen hundred and eighty, rules and regulations required by the fourth paragraph of section thirty-three of chapter one hundred and eighty-four of the General Laws, as amended by section six of this act.

SECTION 9. To meet the expenditures necessary in carrying out the provisions of this act, the state treasurer shall, upon request of the governor, issue and sell at public or private sale bonds of the commonwealth, registered or with interest coupons attached, as he may deem best, to an amount to be specified by the governor from time to time, but not exceeding in the aggregate, the sum of five million dollars. All bonds issued by the commonwealth as aforesaid shall be designated on their face, Agricultural Preservation Restriction Outlay Loan, Act of 1977, and shall be on the serial payment plan for such maximum term of years, not exceeding ten years, as the governor may recommend to the general court pursuant to Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth,

the maturities thereof to be so arranged that the amounts payable in the several years of the period of amortization, other than the final year, shall be as nearly equal as in the opinion of the state treasurer it is practicable to make them. Said bonds shall bear interest semi-annually at such rate as the state treasurer, with the approval of the governor, shall fix. The initial maturities of such bonds shall be payable not later than one year from the date of issue thereof and the entire issue not later than June thirtieth, nineteen hundred and ninety-two.

SECTION 10. The commissioner of food and agriculture shall appoint a task force to consider mechanisms for the protection and promotion of agriculture in the commonwealth, including but not limited to the designation of agricultural districts, creation of a land trust, and extension of the agricultural preservation restriction program to cover other lands and other mechanisms of financing. The task force shall report its recommendations to the general court from time to time, and shall submit a preliminary report to the general court on or before January first, nineteen hundred and seventy-eight.

*Approved December 1, 1977.*

**Chap. 781. AN ACT FURTHER REGULATING THE DIMENSIONS OF SEMITRAILER UNITS.**

*Be it enacted, etc., as follows:*

SECTION 1. Chapter 90 of the General Laws is hereby amended by striking out section 19, as most recently amended by section 2 of chapter 35 of the acts of 1977, and inserting in place thereof the following section:-

*Section 19.* No motor vehicle or trailer, the outside width of which is more than ninety-six inches or in the case of a motor bus one hundred and two inches or the extreme overall length of which is more than thirty-three feet or, in the case of a truck, thirty-five feet, or in the case of a motor bus, forty feet, shall be operated on any way without a special permit so to operate from the board or officer having charge of such way or, in case of a state highway or a way determined by the department of public works to be a through route, from said department; provided, that such width may be exceeded by the lateral projection of pneumatic tires beyond the rims of the wheels for such distance on either side of the vehicle or trailer as will not increase its outside width above one hundred two inches; provided, further, that such width may be further exceeded by the lateral projec-